

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL
COMMISSION MINUTES
July 11, 2003**

The following narrative and summary highlights actions taken by the North Carolina Alcoholic Beverage Control Commission at its regular meeting on July 11, 2003. The meeting was tape-recorded and the tape is on file at the ABC Commission/Legal Division.

ROLL CALL

Acting Chair Ann Scott Fulton was present for the meeting, along with Commissioner Mike Joyner. Commissioner Ricky Wright was not present.

MINUTES OF JUNE 6, 2003 MEETING

The Chairman asked Commission Member Mike Joyner if he had any corrections or additions regarding the Commission minutes from the June 6, 2003, meeting. Commissioner Joyner had no corrections or additions. The Chairman made a motion to approve and waive the reading of the minutes into the record. Seconded by Commissioner Joyner. So Ordered.

EXECUTIVE ORDER REGARDING CONFLICTS OF INTEREST

As required by Executive Order Number One, the Chairman asked Commissioner Joyner if there were any known conflicts of interest or any conditions or facts that might create the appearance of a conflict of interest with respect to any matters on the Agenda. Commissioner Joyner stated that he had no conflicts of interest. The Chairman stated she found no conflicts of interest with regard to herself.

I. HEARING CASES – 88 listed.

Chief Deputy Counsel Fred Gregory stated that contested case #2, Big Daddy's Grocery was to be continued.

Mr. Gregory was the attorney for contested case #1, Atlantic Shores Distributors. Mr. Gregory stated that the petitioner did not show up for the hearing and Administrative Law Judge Fred G. Morrison, Jr. recommended that the petitioner's application for ABC permits be rejected. Mr. Gregory asked the commission to uphold Judge Morrison's decision. The Chairman made a motion to adopt Judge Morrison's decision to reject the petitioner's application. Seconded by Commissioner Joyner. So Ordered.

Mr. Gregory spoke in regard to case #3, Kings Food Mart. He stated that the petitioner did not have \$1,500.00 worth of food available at the time of applying

but has done since the filing of the petition. Mr. Gregory asked that the Commission move to adopt Administrative Law Judge Julian Mann's, III decision to dismiss this case since the Commission had issued the fortified wine permit. The Chairman made a motion to adopt Judge Mann's decision. Seconded by Commission Joyner. So Ordered.

Mr. Gregory stated that Mr. Atulkumar Patel was present to speak on behalf of his business, case #52, 74 Stop and Shop. Mr. Patel stated that he did check the ID of the girl when she came in the store the first time (about a week earlier), but didn't check it the second time she came into the store on the date of the violation. Mr. Patel asked the Commission for consideration since he did check the ID the first time she was in the store. Commissioner Joyner stated that he was not inclined to reduce the penalty. He told Mr. Patel that he must check ID each and every time. The Chairman made a motion to ratify the offer in compromise. Seconded by Commissioner Joyner.

Mr. Gregory stated that Mr. Charles Miller was present to speak on behalf of his business, case #39, Store. Mr. Miller stated that the ALE has visited his business five times in the last year. He further stated that he could not arrest the people who try and use fake ID's, all he could do is refuse to sale. Mr. Miller said that his clerk now has a police record and had to pay a fine, all because of a simple mistake. He further stated that he felt that the merchants were considered the enemy. He said that there were a couple of things that he wanted the Commission to consider:

- 1.) They needed more help.
- 2.) They needed a little more respect from ALE and The Commission

The Chairman stated that the Commission did not consider the merchants the enemy, neither did the ALE. She further stated that the Commission has worked very hard to help the merchants. She stated there were a couple of things that he could do, seize the fake ID's and hold them, turn them over to the police for investigation. Get involved with some organization regarding your business and to write your Legislator. Commissioner Joyner made a motion to reduce the penalty to \$1,500.00. Seconded by the Chairman. So Ordered.

Assistant Counsel Tim Morse spoke regarding case #16, Spinx 347. He stated that was a mistake on the Offer in Compromise regarding the violation. The most recent prior was not underage sale; it was selling during unlawful hours and the permittee has not had a prior violation in five years. The Chairman made a motion to reduce the penalty to 10 days or \$750.00, in accordance with Commission guidelines. Seconded by Commissioner Joyner. So Ordered.

The following cases were continued: #2, #56 and #62.

Mr. Gregory asked the Commission to amend the effective dates of case #45, Friendly Video and Mart from the June 6, 2003 Commission meeting to reflect

the July 11, 2003 effective date. He stated that the legal division was unable to get in contact with the permittee and the Final Agency Decision from last month came back return mail. The Chairman made a motion to amend the dates to effective date August 8, 2003 and pay date August 1, 2003. Seconded by Commissioner Joyner.

REMAINING OFFERS IN COMPROMISE

The Chairman made a motion to accept all offers in compromise except the ones that were either earlier ratified or continued. Seconded by Commissioner Joyner. So Ordered.

II. The following is a list of violation cases, in which Orders were signed by the Chairman on July 11, 2003, pursuant to the Commission's authorizing resolution dated November 8, 2002:

Texaco Food Mart – 202 NC 9, Black Mountain, NC 28711
Sunny Side Market – 1550 Adams Swamp Road, Corapeake, NC 27926
Red Apple 12 – US 13, Powellsville, NC 27967
Petro Mart – 1104 College Street, Clifton, NC 28328
Outback Steakhouse 34259 Raleigh II, 3106 Capital Blvd., Raleigh, NC 27604
Midway Trading Post – 3296 Southport Supply Road SE, Bolivia, NC 28422
Las Margaritas – 3177 Capital Blvd., Raleigh, NC 27604
Family Foods Convenience – Hwy 32, Corapeake, NC 27926
D and M One Stop – 931 West Harrison Street, Reidsville, NC 27320
Casalinga Restaurant - 4536 Capital Blvd., Raleigh, NC 27604
College Road Citgo Fiddle Stix – 1005 South College Road, Wilmington, NC, 28403
Southern Convenience 261 – 723 Railroad Avenue, Rutherfordton, NC 28139
Fast Phils 8 – 1530 Shelton Avenue, Statesville, NC 28677
Cross Creek Amoco – 1899 Skibo Road, Fayetteville, NC 28303
Boulevard Grocery and Service – 1202 Wilson Lee Boulevard, Statesville, NC 28677
A and K Food Mart 2 – 601 West Williams Street, Apex, NC 27502
Mustang II – 507 East Main Street, Forest City, NC 28043
Hot Shots Billiards and Sports Bar – 107 Edinburgh South, Suite 149, Cary, NC 27511
Karis Food Mart – 602 South Alston Avenue, Durham, NC 27701
Family Foods of Salisbury – Hwy 158, Sunbury, NC 27979
Eckerd Drugs 2761 – 508 Hwy 29 North, China Grove, NC 28023
Bandanas Bar B Que and Grill – 1475 Hwy 105, Boone, NC 28607
Community Stop 3 – 12500 Hwy 401 South, Laurinburg, NC 28352
Western Sizzlin Carolina Steakman Restaurant and Bar – 2730 North Roberts Avenue, Lumberton, NC 28358
Texas Roadhouse – 4195 Sycamore Dairy Road – Fayetteville, NC 28303
Corner Store – 2402 North Elm Street, Lumberton, NC 28358
By Pass Quick Mart – 1156 NC 66 South, Kernersville, NC 27284

Adelios – 3608 Kahn Drive, Lumberton, NC 28358

III. OTHER BUSINESS

The Chairman made a motion to amend the J A Jones contract to set forth the last year of the payment schedule that had been missing.

The Chairman set new Commission dates to complete the rest of this year as follows: October 10, 2003, November 7, 2003 and December 12, 2003.

No other business, new or old, was heard. The Chairman made a motion to adjourn the meeting. Seconded by Commissioner Joyner. So ordered.

With no further business, the meeting adjourned.

Ann Scott Fulton, Acting Chair
N.C. Alcoholic Beverage Control Commission

Respectfully submitted by

Tiffany C. Goodson, Legal Division